

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

New York Independent System Operator, Inc.

Docket No. ER03-690-002

ORDER ON REHEARING AND CLARIFICATION

(Issued December 23, 2003)

1. On August 22, 2003, the Commission issued an order¹ conditionally accepting the New York Independent System Operator, Inc.'s (NYISO) tariff provisions implementing new pricing rules for the Hydro-Quebec Proxy Generator Bus (HQ Generator Bus). The new pricing rules are designed to limit the extent to which prices at the HQ Generator Bus can be established at non-competitive levels. NYISO seeks rehearing of certain rule modifications which were required by the August 22 Order. NYISO also seeks clarification that it can correct certain errors identified by the parties. The Commission will deny rehearing but will amend the required modification to the rules and grant the requested clarification. This action will benefit the public by reducing significant price distortions resulting from a lack of competitive import and export offers at the HQ Generator Bus.

I. Background

2. The electric grid interface between New York and Hydro-Quebec, Canada is comprised of multiple transmission facilities. However, these facilities, located in New

¹New York Independent System Operator, Inc., 104 FERC ¶ 61,220 (2003) (August 22 order).

York, are represented as a single point for which a price is calculated. That single point is the HQ Generator Bus.²

3. NYISO originally proposed that the HQ Generator Bus (and any subsequently designated Non-Competitive Proxy Generator Bus) would be subject to certain real-time pricing rules during certain periods. The purpose of the proposed rules was to mitigate both seller market power (where an entity seeks to raise the locational-based marginal price (LBMP) for energy above competitive levels) as well as buyer market power (where an entity seeks to lower the LBMP below competitive levels). The need for the rules was evidenced by NYISO's reporting of price drops as low as negative \$999.99/MWh to receive power from Quebec, meaning that NYISO was forced to pay parties almost \$1000/MWh to take back electricity when imports into New York at the HQ Generator Bus were constrained.

4. NYISO described instances where an entity at a Non-Competitive Proxy Generator Bus may be able to exercise market power.³ For example, market power may arise when NYISO schedules net imports in the day-ahead market from the Non-Competitive Proxy Generator Bus, and when a constraint develops after the close of the day-ahead market that reduces the amount of energy that can be feasibly imported into New York from that bus.⁴ During such instances, NYISO must find a way to reduce net imports below day-ahead scheduled amounts that originate from that specific bus; reducing imports that originate from other control areas will not satisfactorily address the constraint. Because of high concentration at the bus, an entity located at the bus is in a position to exercise buyer market power during such instances. Such an entity may be able to reduce the LBMP at the bus below competitive levels.

5. Our August 22 Order conditionally accepted NYISO's proposed pricing rule. We were persuaded that market power could arise during some, but not all, instances when NYISO becomes constrained for imports or exports involving a Non-Competitive Proxy Generator Bus. Since the proposed pricing rule is intended to mitigate market

²Further, as defined in NYISO's Services Tariff (Article 2.149), a Proxy Generator Bus is a generator bus located outside the New York Control Area that is selected by the NYISO to represent a typical bus in an adjacent Control Area and for which locational-based marginal prices for energy are calculated.

³ See NYISO's April 1, 2003 filing and its June 24, 2003 response to Staff's request for additional information.

⁴ Such constraints can arise, for example, when the transmission interface between New York and the Non-Competitive Proxy Bus is derated after the close of the day-ahead market.

power, we concluded that the rule should be applied only in those instances where NYISO has demonstrated that an entity at the Non-Competitive Proxy Generator Bus can exercise market power.

6. We concluded in our August 22 Order that the potential to exercise market power at the Non-Competitive Proxy Generator Bus would arise only when NYISO must schedule a counterflow transaction involving the Non-Competitive Proxy Generator Bus in the BME⁵ or in real time to relieve the constraint. Therefore, we directed NYISO to modify its proposed pricing rules so that they would apply only when NYISO must schedule such a counterflow transaction to relieve the constraint.

II. Request for Rehearing and Clarification

7. On rehearing, NYISO requests that we not require modification of the proposed pricing rule. NYISO argues that an entity could exercise market power even if NYISO did not relieve the constraint by scheduling a counterflow that involved the Non-Competitive Proxy Generator Bus.⁶ NYISO states that it is possible that no entity may offer a counterflow that could relieve the constraint. As a result, NYISO would be required to settle the day-ahead market position of an entity at the bus that is not matched by a countervailing real-time transaction at an unduly high price. That is, NYISO would be required to buy back energy in the real-time market at an unduly lower price or sell back energy in the real-time market at an unduly high price (depending on whether the interface is experiencing an import or export constraint) from an entity at the Non-Competitive Proxy Generator Bus.

8. In addition, NYISO requests clarification that the tariff provisions embodying its proposed pricing rules should be modified in certain minor respects, as the New York

⁵ BME refers to the Balancing Market Evaluation. The BME is an evaluation that takes place approximately 90 minutes ahead of each hour, to ensure that the day-ahead First Settlement schedules meet all of the reliability requirements. Based upon the day-ahead commitment and updated Load forecasts and Generator schedules, the BME will assess new bids for the LBMP markets and new requests for bilateral transaction schedules for the Dispatch Hour to which the Security Constrained Unit Commitment (SCUC) applies. The BME will re-dispatch Internal Generators, schedule External Generators, schedule new Bilateral Transactions if feasible, update Desired Net Interchanges if needed, and Reduce or Curtail Bilateral Transactions with Non-Firm and Firm Transmission Service as needed for the Dispatch Hour for which the SCUC applies.

⁶ We infer from NYISO's comments that it defines a "counterflow transaction" as a paired set of injections and withdrawals requested by a single entity.

Transmission Owners had requested in their comments on the original filing.⁷ NYISO requests clarification that the Commission has no objection to these minor corrections. These corrections include: (1) leaving in place a sentence which was deleted in error on Second Revised Sheet No. 106A;⁸ (2) clarifying that a sentence which was added on Second Revised Sheet No. 106A should be placed after the erroneously deleted sentence;⁹ and (3) adding a header which was erroneously omitted on Attachment B to the Services Tariff and also on Original Sheet No. 335C.¹⁰

III. Discussion

9. Upon review, we are not persuaded to entirely abandon our modification to the pricing rules, as NYISO requests. However, as discussed below, we are persuaded that our original modification was too narrow. We will, therefore, amend that modification as discussed below.

10. The purpose of the proposed pricing rules is to mitigate market power at a Non-Competitive Proxy Generator Bus that is created by transmission constraints. However, as we stated in our August 22 Order, and as NYISO stated in its June 24 response to our request for additional information, there are some instances when a constraint involving

⁷ See Motion to Intervene in Support and Clarification, filed May 2, 2003 by the New York Transmission Owners. The New York Transmission Owners consist of: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority; New York State Electric & Gas Corporation; Orange and Rockland Utilities; Rochester Gas and Electric Corporation; and Niagara Mohawk Power Corporation (a National Grid Company).

⁸ The sentence reads: “Each Generator committed by the ISO in the Real-Time Market whose Real-Time LBMP payments for Energy produced are less than its Minimum Generation and Start-Up Bids to produce that Energy will be compensated by the ISO for its shortfall, in accordance with Attachment C.”

⁹ The sentence which reads “When the Interface between the NYCA and the Control Area in which the Non-Competitive Proxy Generator Bus is located is export constrained due to limits on Available Interface Capacity or Ramp Capacity limits for that Interface in an hour, External Generators and other Suppliers scheduling Import transactions at such Non-Competitive Proxy Generator Bus in that hour will not be eligible for Real-Time shortfall payments for those transactions.” should follow the erroneously deleted sentence listed in footnote 8 of this order.

¹⁰ The header should read: “The Marginal Losses Component of LBMP.”

a Non-Competitive Proxy Generator Bus that develops after the close of the day-ahead market will not create an ability for an entity at the bus to exercise market power.

11. For example, the interface between the Non-Competitive Proxy Bus and New York could become congested in real time because of an increase in real-time demand in New York (above that scheduled in the day-ahead market). The additional demand in real time could be met with sufficient additional real-time imports so as to congest the interface between the Non-Competitive Proxy Bus and New York. As NYISO explained in its June 24 response to our request for additional information, suppliers at the Non-Competitive Proxy Bus in this instance would have to compete to sell energy into the NYISO markets with suppliers from several other control areas. NYISO would not be required to accept a sale of energy at the Non-Competitive Proxy Generator Bus, and thus, would not be vulnerable to non-competitive prices at the bus.

12. NYISO argues that as a practical matter in this instance, its proposed pricing rule would almost always result in the same LBMP at the Proxy Bus as would have been calculated in the absence of the rule. NYISO also states in its rehearing request that the proposed rules could be “fine tuned” to address these latter scenarios, but that such fine tuning would be potentially burdensome and would delay the posting of Proxy Generator Bus prices. However, since the proposed rule is intended to alter the usual calculation of LBMPs in order to mitigate market power, we conclude that the rule should not be applied in instances when market power would not arise.

13. However, based on NYISO’s comments, we are persuaded that our original modification to the proposed pricing rule was too narrow. Market power may arise when NYISO must relieve a real-time constraint in either of two ways. One way is by scheduling a counterflow transaction involving the Non-Competitive Proxy Generator Bus in the BME or in real time. The other way is by settling a day-ahead market position at the Non-Competitive Proxy Generator Bus in the BME or in real time -- that is, by finding in the BME or in real time an entity either: (1) to buy back energy that it has sold in the day-ahead market, or (2) to sell back energy it has purchased in the day-ahead market (depending on whether an import or export constraint exists). We will, therefore, amend our directive to modify the proposed pricing rule accordingly.

14. We will also grant the request for clarification. The Commission has no objection to the corrections requested by the New York Transmission Owners, as articulated by NYISO in its request for rehearing.

The Commission orders:

(A) NYISO's request for rehearing is hereby granted in part, and denied in part, as discussed in the body of this order. Our August 22, 2003 Order in this proceeding is modified, as discussed in the body of this order.

(B) NYISO's request for clarification is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.